IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Beth Gokor,

Plaintiff,

v.

Randall S. Schlievert, M.D., etc, et al.

Defendants.

CASE NO. 3:16CV3038

* JUDGE ZOUHARY

Magistrate Knepp

* **DEFENDANT LUCAS COUNTY'S AMENDED ANSWER TO PLAINTIFF'S COMPLAINT WITH JURY DEMAND**

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Now comes the Defendant Lucas County, by and through counsel, and answers Plaintiff's Complaint as follows:

1. Lucas County Defendant denies claims asserted against Lucas County and lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 1.

Nature of Action

2. In response to paragraph 2 of Plaintiff's complaint, this answering Defendant denies all factual allegations asserted against this Defendant. This Defendant is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations in paragraph 2 of Plaintiff's complaint.

3. In response to paragraph 3 of Plaintiff's complaint, this answering Defendant denies that Plaintiff is entitled to any relief as requested in paragraph 3 of Plaintiff's complaint. This Defendant is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations in paragraph 3 of Plaintiff's complaint.

Jurisdiction

4. In response to paragraph 4 of Plaintiff's complaint, this answering Defendant asserts that paragraph 4 contains legal conclusions to which no responsive pleading is required. This Defendant denies any and all remaining allegations contained in paragraph 4 of Plaintiff's complaint.

Venue

5. In response to paragraph 5 of Plaintiff's complaint, this answering Defendant asserts that paragraph 5 contains legal conclusions to which no responsive pleading is required. This Defendant denies any and all remaining allegations contained in paragraph 5 of Plaintiff's complaint.

Parties

6. In response to paragraph 6 of Plaintiff's complaint, this answering Defendant asserts that it is without knowledge or information sufficient to form a belief as to the truth of allegations continued in paragraph 6 of Plaintiff's complaint.

7. In response to paragraph 7 of Plaintiff's complaint, this answering Defendant admits that Defendant Schlievert provides services to Lucas County Children Services (LCCS) pursuant to a contractual arrangement and upon information and belief, admits that Defendant was board certified in general pediatrics and child abuse pediatrics at the relevant times. LCCS relies upon Schlievert to provide medical evaluations or consultations. This Defendant is without knowledge or information sufficient to form a belief as to the truth of remaining allegations contained in that paragraph 7 of Plaintiff's complaint.

8. In response to paragraph 8 of Plaintiff's complaint, this answering Defendant denies the same.

Statement of Facts

9. In response to paragraphs 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 and 39 of Plaintiff's complaint, this answering Defendant asserts that it is without knowledge or information sufficient to form a belief as to the truth of allegations continued in paragraphs 9-39 of Plaintiff's complaint.

10. In response to paragraph 40 of Plaintiff's complaint, this answering Defendant asserts that the incident report speaks for itself, and further, this answering Defendant is without

knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 40 of Plaintiff's complaint.

11. In response to paragraphs 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 Plaintiff's complaint, this answering Defendant asserts that all referenced medical records speak for themselves, but this answering Defendant it is without knowledge or information sufficient to form a belief as to the truth of allegations continued in paragraphs 41-54 of Plaintiff's complaint.

12. In response to paragraph 55 of Plaintiff's complaint, this answering Defendant asserts that a referral was made in the subject case for Dr. Schlievet's review. This Defendant is without knowledge or information sufficient to form a belief as to the truth of remaining allegations continued in paragraph 55 of Plaintiff's complaint.

13. In response to paragraph 56 of Plaintiff's complaint, this answering Defendant admits that at the time of his review, Defendant Schlievert was a medical doctor certified in general pediatrics and child abuse pediatrics. This Defendant is without knowledge or information sufficient to form a belief as to the truth of remaining allegations continued in paragraph 56 of Plaintiff's complaint.

14. In response to paragraph 57 of Plaintiff's complaint, this answering Defendant submits that Defendant Schlievert provided services to Lucas County Children Services (LCCS) pursuant to a contractual arrangement. Further, the contract speaks for itself. This Defendant denies the remaining allegations continued in paragraph 57 of Plaintiff's complaint.

15. In response to paragraphs 58, 59, 60, 61, 62, 63, 64, 65 and 66 of Plaintiff's complaint. This answering Defendant states that certain statements are legal conclusions to which

no responsive pleading is required, that the contract for Dr. Schlievert's services speaks for itself, that Dr. Schlievert testified as an expert in legal proceedings initiated by Lucas County Prosecutor's Office, but denies the remaining allegations either specifically or for lack of knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraphs 58-66 of Plaintiff's complaint.

16. In response to paragraph 67 of Plaintiff's complaint, this answering Defendant asserts that paragraph 67 contains legal conclusions to which no responsive pleading is required. This Defendant denies any and all remaining allegations contained in paragraph 67 of Plaintiff's complaint.

17. In response to paragraph 68, this answering Defendant admits that Dr. Schlievert authored a report dated January 8, 2015. The report speaks for itself and this Defendant denies any and all remaining allegations contained in paragraph 68 of Plaintiff's complaint.

18. In response to paragraphs 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79 and 80 of Plaintiff's complaint, this answering Defendant is without knowledge or information sufficient to form a belief as to the truth of allegations continued in paragraphs 69-80 of Plaintiff's complaint.

19. In response to paragraphs 81, 82, 83, 84 and 85 of Plaintiff's complaint, this answering Defendant states that legal conclusions are statements to which no responsive pleading is required and that Defendant Schlievert's report speaks for itself. This answering Defendant denies any remaining allegations contained in paragraphs 81- 85 of Plaintiff's complaint.

20. This answering Defendant denies the allegations denies the allegations in paragraph 86 of Plaintiff's complaint.

21. In response to paragraphs 87, 88, 89, 90, 91, 92, 93, 94, 95, and 96 of Plaintiff's complaint, this answering Defendant is without knowledge or information sufficient to form a belief as to the truth of allegations continued in paragraphs 87-96 of Plaintiff's complaint.

22. In response to paragraph 97 of Plaintiff's complaint, this answering Defendant asserts that this paragraph contains legal conclusions to which no responsive pleading is required. Further, this answering Defendant states that Defendant Schlievert's report speaks for itself but denies all remaining allegations in paragraph 97 of Plaintiff's complaint.

23. In response to paragraphs 98, 99, 100 and 101 of Plaintiff's complaint, this answering Defendant submits that the reports of Detective Rider and Defendant Schlievert speak for themselves and that Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraphs 98-101 of Plaintiff's complaint.

24. In response to paragraphs 102 and 103, this answering Defendant submits that the Lucas County Clerk of Court records and docket speak for themselves and that Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraphs 102 and 103 of Plaintiff's complaint

25. In response to paragraphs 104, 105, 106 and 107 this answering Defendant submits that legal conclusions require no responsive pleading is required and that the Ohio Revised

Code speaks for itself. This Defendant denies any other allegations contained in paragraphs 104-107 of Plaintiff's complaint

26. In response to paragraphs 108 (a, b), 109, 110, 111 and 112 this answering Defendant submits that the confidentiality of Grand Jury proceedings is protected pursuant to Crim. R. 6, that the Lucas County Clerk of Court records and docket speak for themselves, and that the Grand Jury returned a true bill on March 20, 2015 indicting Beth Goker for Endangering Children §2919.22 (B) (1) and (E) (2) (d). Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraphs 108(a, b)-112 of Plaintiff's complaint.

27. In response to paragraphs 113, 114, 115, 116, 117 and 118 this answering Defendant submits that the Lucas County Clerk of Court records and docket speak for themselves and that Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraphs 113-118 of Plaintiff's complaint

28. This answering Defendant denies the allegations contained in paragraphs 119 and 120 of Plaintiff's complaint.

29. In response to paragraphs 121, 122, 123, 124 of Plaintiff's complaint, this answering Defendant states that any purported report should speak for itself and this answering Defendant is without knowledge or information sufficient enough to form a belief as to the truth of the remaining allegations contained in paragraphs 121-124 of Plaintiff's complaint.

30. In response to paragraph 125 of Plaintiff's complaint, this answering Defendant is without knowledge or information sufficient enough to form a belief as to the truth of the remaining allegations contained in paragraph 125 of Plaintiff's complaint.

31. This answering Defendant denies the allegations in paragraph 126 of Plaintiff's complaint.

32. In response to paragraphs 127 and 128 this answering Defendant submits that the Lucas County Clerk of Court records and docket speak for themselves. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraphs 127 and 128 of Plaintiff's complaint

33. In response to paragraphs 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, and 141 this answering Defendant submits that Defendant Schlievert's report speaks for itself Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraphs 129-141 of Plaintiff's complaint

34. In response to paragraph 142 of Plaintiff's complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 142 of Plaintiff's complaint.

35. In response to paragraphs 143, 144, 145, 146, 147, 148, 149, and 150 of Plaintiff's complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 143-150 of Plaintiff's complaint.

Lucas County

36. In response to paragraph 151 Defendant submits that Defendant Schlievert provided services to LCCS pursuant to a contractual arrangement. Further, the contract speaks for itself. This Defendant is without knowledge or information sufficient to form a belief

as to the truth of remaining allegations continued in Paragraph 151 of Plaintiff's complaint.

37. In response to paragraphs 152, 153, 154, 155, 156, and 157 this answering Defendant submits that Defendant Schlievert's report and contract speak for themselves. Further, this Defendant denies any and all remaining allegations contained in paragraphs 152-157.

Claims for Relief:

Count I

38. In response to paragraph 158, this Defendant incorporates each and every paragraph of this answer as if they were fully re-written herein.

39. In response to paragraphs 159, 160, 161, 162 and 163, this answering Defendant asserts that the paragraphs contain legal conclusions to which no responsive pleading is required. The Defendant denies any remaining allegations contained in paragraphs 159-163 of Plaintiff's complaint, either specifically or for lack of knowledge.

40. In response to paragraphs 164, this answering Defendant is without knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 164 of Plaintiff's complaint.

41. In response to paragraphs 165, 166 and 167 this answering Defendant submits that Defendant Schlievert's report and the contract for his services speak for themselves. Further, this Defendant denies any and all remaining allegations contained in paragraphs 165-167.

42. In response to paragraphs 168, 169 and 170 this answering Defendant submits that Defendant Schlievert's report and the contract for his services speak for themselves.

Further, this Defendant denies any and all remaining allegations contained in paragraphs 168-170.

43. In response to paragraphs 171, 172 and 173 this answering Defendant denies the allegations contained in paragraphs 171-173 of Plaintiff's complaint.

44. In response to paragraph 174, this answering Defendant denies Plaintiff is entitled to any of the relief requested.

Count II

45. In response to paragraph 175, this Defendant incorporates each and every paragraph of this answer as if they were fully re-written herein.

46. In response to paragraphs 176 and 177, this answering Defendant asserts that the paragraphs contain legal conclusions to which no responsive pleading is required. The Defendant denies any remaining allegations contained in paragraphs 176 and 177 of Plaintiff's complaint, either specifically or for lack of knowledge.

47. In response to paragraphs 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, and 189 of Plaintiff's complaint, this answering Defendant states that the paragraphs contain legal conclusions to which no responsive pleading is required and denies the remaining allegations contained in paragraphs 178-189 of Plaintiff's complaint either specifically or for lack of knowledge.

48. In response to paragraph 190 of Plaintiff's complaint, this answering Defendant denies any factual allegations contained in paragraph 190 and further denies that Plaintiff is entitled to any relief requested.

Count III

49. In response to paragraph 191, this Defendant incorporates each and every paragraph of this answer as if they were fully re-written herein.

50. In response to paragraph 192, this answering Defendant asserts that paragraph 192 contains legal conclusions to which no responsive pleading is required. The Defendant denies any remaining allegations contained in paragraph 192 of Plaintiff's complaint, either specifically or for lack of knowledge.

51. In response to paragraphs 193, 194, 195, 196, 197, 198, 199, 200 and 201, this Defendant denies the same either specifically or for lack of knowledge.

Count IV

52. In response to paragraph 202, this Defendant incorporates each and every paragraph of this answer as if they were fully re-written herein.

53. In response to paragraph 203, this answering Defendant asserts that paragraph 203 contains legal conclusions to which no responsive pleading is required. The Defendant denies any remaining allegations contained in paragraphs 203 of Plaintiff's complaint, either specifically or for lack of knowledge.

54. In response to paragraphs 204, 205, 206, 207, 208, 209, 210, and 211 this Defendant denies the same.

55. In response to first appearing paragraph 212 and 213, this answering Defendant denies any factual allegations and further denies Plaintiff is entitled to the relief claimed.

COUNT V

56. In response to the second appearing paragraph 212, this Defendant incorporates each and every paragraph of this answer as if they were fully re-written herein

57. In response to second appearing paragraph 213, this Defendant denies the allegations contained in second appearing paragraph 213.

58. In response to paragraph 214 of Plaintiff's complaint, the Constitution speaks for itself, further, this paragraph contains a legal conclusion which requires no responsive pleading.

59. In response to paragraphs 215, 216 and 217 of Plaintiff's complaint, this answering Defendant denies the same.

60. In response to paragraph 218 of Plaintiff's Complaint, this answering Defendant submits that the Lucas County Clerk of Court docket and/or court orders speak for themselves. Is without information sufficient to prove the truth of all remaining allegations contained in paragraph 218 plaintiff's complaint.

61. In response to paragraphs 219, 220, 221, 222 and 223 of Plaintiff's complaint, this answering Defendant denies the same.

COUNT VI

62. In response to paragraph 224 of Plaintiff's complaint, this Defendant incorporates each and every paragraph of this answer as if they were fully re-written herein.

63. In response to paragraph 225 of Plaintiff's complaint, this Defendant is without information or knowledge to determine the truth of the matter asserted.

64. In response to paragraphs 226, 227, 228, 229, 230 and 231 of Plaintiff's complaint this answering defendant denies the same.

COUNT VII

65. In response to paragraph 232, this Defendant incorporates each and every paragraph of this answer as if they were fully re-written herein

66. In response to paragraph 233 of Plaintiff's complaint, this answering Defendant submits that the contract for Defendant Schlievert's services speaks for itself, and further denies any and all remaining allegations contained in paragraph 233 of Plaintiff's complaint.

67. In response to paragraphs 234, 235, 236, 237, 238, 239, 240, 241 and 242 of Plaintiff's complaint this answering Defendant denies the same.

68. This answering Defendant denies the factual allegations contained in paragraphs 243 (A, B, C, D) of Plaintiffs complaint.

69. This answering Defendant denies each and every allegation asserted against this Defendant that is not specifically admitted in this Defendant's answer.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

70. Lucas County Defendant denies that Plaintiff is entitled to any relief from answering Defendant.

SECOND DEFENSE

74. Plaintiff's complaint fails to state a claim upon which relief may be granted against the Lucas County Defendant.

THIRD DEFENSE

75. Defendant's actions which may have affected Plaintiffs were undertaken in good faith, without malice or recklessness, and were properly within the execution of duties imposed by Ohio law.

FOURTH DEFENSE

76. Lucas County Defendant is absolutely and qualifiedly immune from suit pursuant to

Ohio Revised Code 2151.421(G) and 2744.01 et seq., other state statutes, Federal statutes, and are therefore immune from liability for Plaintiff's claims.

FIFTH DEFENSE

77. Plaintiff's claims are barred, in whole or in part, by 42 U.S.C. 1983.

SIXTH DEFENSE

78. Plaintiffs' injuries and/or damages are the direct and proximate result of acts and/or omissions of third persons not subject to the direction or control of the answering Defendant.

SEVENTH DEFENSE

79. Plaintiff's claims for punitive damages is in violation of the Ohio and United States Constitutions.

EIGHTH DEFENSE

80. The Lucas County Defendant is entitled to enforce any and all provisions, restrictions, setoffs, limitations on damages, or other protections afforded by the law applicable to this matter.

NINTH DEFENSE

81. Plaintiff has failed to mitigate her damages as required by law.

TENTH DEFENSE

82. Plaintiff is estopped to recover judgment, because damages were caused by the acts of Plaintiff, not any state actor.

ELEVENTH DEFENSE

83. Plaintiff has engaged in negligent and/or other culpable conduct, and such conduct directly and proximately caused or contributed to cause the damages and/or losses

complained of.

TWELFTH DEFENSE

84. Plaintiff's claims are barred by waiver and/or estoppel.

THIRTEENTH DEFENSE

85. Plaintiffs' claims resulted from an intervening or superseding cause or event over which defendants had no control and are not responsible.

FOURTEENTH DEFENSE

86. Plaintiff has failed to exhaust any/all administrative appeals or remedies allowed by law.

FIFTEENTH DEFENSE

87. Lucas County Defendant reserves the right to assert affirmative defenses to the extent such defenses are discovered during the course of litigation.

SIXTEENTH DEFENSE

88. Plaintiff's claims are barred in whole or in part by the statute of limitations.

WHEREFORE, Lucas County respectfully requests that this Court dismiss the complaint against them, awarding reasonable attorney's fees, costs of this action, and such other relief as this Court deems equitable.

Respectfully submitted,

JULIA R. BATES
LUCAS COUNTY PROSECUTING ATTORNEY

By: /s/ Maureen O. Atkins
Maureen O. Atkins
Evy M. Jarrett
Elaine B. Szuch
Assistant Prosecuting Attorneys

JURY DEMAND

The Lucas County Defendant demand a trial by jury.

Respectfully submitted,
JULIA R. BATES
Lucas County Prosecuting Attorney

By: /s/ Maureen O. Atkins
Maureen O. Atkins
Evy M. Jarrett
Elaine B. Szuch
Assistant Prosecuting Attorney

CERTIFICATE OF SERVICE

I certify that the foregoing Certificate of Service was filed electronically on this 17th day of March, 2017. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

By: /s/ Maureen O. Atkins
Maureen O. Atkins
Assistant Prosecuting Attorney